

1 MINUTES

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3 The State Board of Elections Board Meeting was held on Saturday, March 8,
4 2014. The meeting was held in the Homestead, Lexington Room, Hot Springs, Virginia.
5 In attendance, representing the State Board of Elections (SBE) was Charles Judd, Chair;
6 Kimberly Bowers, Vice Chair; Donald Palmer, Secretary; Edgardo Cortés, Deputy
7 Secretary; and Gary Fox, Voting Technology Specialist. Chairman Judd called the
8 meeting to order at 2:00PM.

9 The first order of business was the Certification of the Unisyn Voting Systems
10 tabled at the February 26, 2014 Board Meeting. Chairman Judd stated that this agenda
11 item was being removed from the table and was being considered. Vice Chair Bowers
12 moved *that the Unisyn Voting Systems agenda item be removed from the table for Board*
13 *consideration*. Secretary Palmer seconded the motion and Board unanimously approved
14 the motion. Edgardo Cortés, Deputy Secretary, provided an overview of the presentation
15 presented on February 26, 2014 Board Meeting. Mr. Cortés stated that Unisyn initiated
16 the certification evaluation by a letter to the Secretary of State Board of Elections on
17 December 23, 2013. Unisyn provided their corresponding Technical Data Package and
18 Corporate Information, required under step 2 of the *Requirements and Procedures*, on
19 January 7, 2014. Both of these submissions were deemed complete and in sufficient
20 detail to warrant Step 3, the Preliminary Review. During the preliminary review, the
21 state-designated evaluation agent conducted a preliminary analysis of the TDP, Corporate
22 Information, and other materials provided and prepared an Evaluation Proposal also
23 know as Test Plan. Upon Unisyn's agreement with the Test Plan, the evaluation was
24 conducted on January 13-15, 2014, in the State Board of Elections offices in Richmond,
25 Virginia. The Unisyn OpenElect Optical Scan Voting System version 1.2 successfully
26 completed Virginia State Certification Program. On December 23, 2013, the Election
27 Assistance Commission (EAC) issued their Grant of Certification of the Unisyn
28 OpenElect Optical Scan Voting System version 1.2.

29 Chairman Judd stated: "It is my intent to have this vendors' certification
30 contingent on signing a state contract. The vendor has agreed to this condition. I think
31 this will help establish and lock vendors in for global pricing. I understand that line 48 of

32 the contract states: “that if the vendor offers a discount to any locality that new price
33 becomes the contract price.” This will achieve our goal of having global pricing.”
34 Secretary Palmer stated that he agreed with concept and the progress achieved on global
35 pricing. Vice Chair Bowers moved *that the Board certify the Unisyn Open Elect Optical*
36 *Scan Voting System version 1.2 for use in elections in the Commonwealth of Virginia*
37 *pursuant to the State Certification of Voting Systems: Requirements and Procedures.*
38 Secretary Palmer seconded the motion. Chairman Judd stated: “The Chair would like to
39 have the motion included the phrase “contingent on state contract””. Vice Chair Bowers
40 restated her motion *that the Board certifies the Unisyn Open Elect Optical Scan Voting*
41 *System version 1.2 for use in elections in the Commonwealth of Virginia, with a state*
42 *contract, pursuant to the State Certification of Voting Systems: Requirements and*
43 *Procedures.* Chairman Judd asked if there were any comments on the motion.

44 Robin Lind, Secretary of the Goochland County Electoral Board, asked if this
45 would require vendors to reduce the price with a small locality if the vendor then
46 negotiates a lesser price with a larger locality. Mr. Lind asked if the smaller locality
47 would be given a refund if a lower price was give after a smaller locality purchased
48 voting equipment. Chairman Judd stated that the vendor would accept that their new
49 contract price would be the negotiated lower price. Chairman Judd stated: “The locality
50 that paid the higher price would have the ability to get a refund. We are without legal
51 counsel today which would need to be consulted.” Secretary Palmer stated that it is not
52 probable that a locality could go back to the vendor and ask for refund based off of a
53 newly established contract price with another locality. Vice Chair Bowers stated that a
54 state contract would not allow a locality to renegotiate an executed contract for a refund.
55 Chairman Judd asked if there were any comments.

56 Bruce Brown, Vice Chair, Electoral Board of Alexandria City, asked who is
57 responsible for letting the localities know when a price changes occur. Gary Fox, Voting
58 Technology Specialist, stated that the vendors would be required to go back through the
59 state procurement system and when SBE reviews the new contract SBE would know that
60 a price change has occurred which SBE would then pass along to the localities as they
61 negotiate new contracts. Donald Ledwig, Secretary, Electoral Board of Alexandria City,
62 stated that you could not revisit contracts with vendors that were closed. Vice Chair

63 Bowers stated in a market of fair competition eventually a vendor will become known for
64 their pricing strategy and this will create some healthy competition among vendors.
65 Secretary Palmer asked whether in a situation where a vendor does not choose to
66 participate in global pricing does, SBE have the right under existing code, to say to a
67 vendor that you must participate in global pricing. The concern would be tying the
68 certification of voting systems to a RFP as a condition of entering into or receiving a state
69 contract. Chairman Judd stated that he was operating off of advice that was received by
70 SBE's previous legal counsel. A simple edit to the procedures that SBE has for certifying
71 could include that one of the elements for certification is that the vendor would
72 participate in global pricing and that the SBE Board can decertify for any reason.
73 Secretary Palmer stated that decertifying equipment is a serious matter and usually deals
74 with equipment that is not working or tabulating results as designed and does not meet
75 the standards of the *Code of Virginia*. Decertification of any voting equipment has a
76 dramatic impact on the localities that utilize that vendors' equipment because the result is
77 that all localities operating the system can no longer use the equipment during elections
78 and must purchase new equipment at their expense. Therefore, to tie a contractual
79 concept with decertifying equipment for use in the field becomes a question of: "Is this
80 appropriate?" Secretary Palmer stated SBE legal counsel should provide consultation on
81 this matter but that he did not believe tying the certification to global pricing contracts
82 was permissible under the code and, even if so, was not appropriate. Chairman Judd
83 stated that he was not suggesting putting the localities in jeopardy with their equipment
84 but, rather to include the idea of global pricing and service support, and to provide
85 uniformity across the Commonwealth. Chairman Judd asked if there were any additional
86 comments on the motion.

87 Secretary Palmer stated that he would like to modify the motion to approve the
88 Unisyn OpenElect Voting System without conditioning the certification on global
89 pricing. Chairman Judd stated that Unisyn agreed to the contingency of global pricing.
90 Chairman Judd asked if there was a substitute or an amendment currently on the floor.
91 Secretary Palmer moved *to substitute the motion to certify the Unisyn Open Elect Optical*
92 *Scan Voting System version 1.2 for use in elections in the Commonwealth of Virginia*
93 *pursuant to the State Certification of Voting Systems: Requirements and Procedures. Vice*

94 Chair Bowers seconded the motion. Chairman Judd asked if there were any comments.
95 Vice Chair Bowers stated: "SBE should address this issue across the board with all the
96 vendors based on some of the conversations. The reason for my seconded is because
97 Unisyn did meet the requirements of certification put before them months ago."
98 Chairman Judd stated: "This particular vendor has agreed to accept certification with a
99 contingency realizing that they are the only vendor that has been asked to do this."
100 Chairman Judd called for a roll call vote. Chairman Judd voted: nay, Vice Chair Bowers
101 voted: aye and Secretary Palmer voted: aye. Chairman Judd confirmed that the vote for
102 the amended motion was two to one to accept the amended motion. Chairman Judd
103 returned to the motion *to approve Unisyn for their certification without the contingency.*
104 Chairman Judd called for a roll call vote and the Board unanimously approved the
105 motion.

106 Secretary Palmer informed the Board that the SBE Staff was working on the voter
107 identification outreach program that begins on July 1, 2014. Secretary Palmer stated that
108 one of the methods of outreach was to modify a flyer based on our previous voter
109 identification program and that we would have officers of elections hand out the
110 informational fliers during the June primaries. Secretary Palmer stated that this would be
111 a cost effective way to inform the voters of the new laws coming into effect on July 1,
112 2014. Chairman Judd asked if there were any comments. Vice Chair Bowers stated that
113 getting this information to the voter is essential and because SBE does not know how
114 many people will seek a Voter Identification Card it is important to communicate the
115 information at the earliest date. Chairman Judd stated that it is important to start with the
116 outreach program at the earliest possible date. Secretary Palmer stated that SBE will ask
117 the localities to hand out the flyers to voters as they leave the primaries and a motion of
118 support from the Board would emphasize the outreach programs' importance. Chairman
119 Judd moved *that the Board encourages the agency to use all available resources before*
120 *July 1, 2014, to begin the process of raising the awareness of the public voter*
121 *identification program.* Vice Chair Bowers seconded the motion and the Board
122 unanimously approved the motion.

123 Chairman Judd asked if there were any additional comments and there were none.

124 Chairman Judd moved *that the Board adjourn*. Vice Chair Bowers seconded the
125 motion and without further comment the Board adjourned.

126 The Board shall reconvene on March 19, 2014 at 10:00AM in the General
127 Assembly Building, Room C. The meeting was adjourned at approximately 2:50PM.

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Secretary

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Chair

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Vice-Chair

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